

Meeting Date: 12/2/08

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 9B



Date: November 24, 2008
To: City Manager for Council Action
From: Director of Planning and Inspection
Subject: Note and File Amended September 24, 2008 Planning Commission Minutes

EXECUTIVE SUMMARY:

At the November 12, 2008 Planning Commission meeting, Commissioner Champeny said there had been a lot of conversation at the September 24th Planning Commission meeting about removing suitable habitat for burrowing owls, with regard to a project at 2800 Mission College, and he wanted the minutes to show that due diligence was done. Commissioner Champeny distributed a list of the comments he had made at the meeting and said if the Commissioners agreed, the minutes could be amended to include all of these comments.

The Planning Commission approved accepting Commissioner Champeny's comments as amendments to the September 24, 2008 Planning Commission minutes. His comments were added to Item 9 under Rezoning, and the amended minutes are attached.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

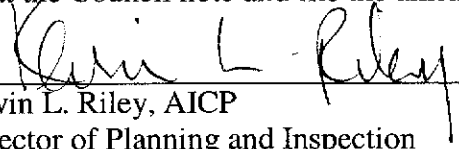
None identified.

ECONOMIC/FISCAL IMPACT:

There is no cost to the City other than administrative staff time and expense.

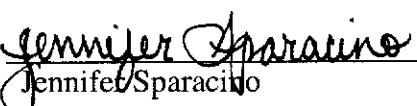
RECOMMENDATION:

That the Council note and file the amended September 24, 2008 Planning Commission minutes.



Kevin L. Riley, AICP
Director of Planning and Inspection

APPROVED:



Jennifer Sparacino
City Manager

Documents Related to this Report:

1) *Amended Planning Commission minutes for September 24, 2008*

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**City of Santa Clara
PLANNING COMMISSION
Wednesday, September 24, 2008
6:00 P.M.**

**CITY COUNCIL CHAMBERS
MINUTES AMENDED NOVEMBER 12, 2008**

Please refer to the Planning Commission Procedural Items coversheet
for information on all procedural matters.

SPECIAL STUDY SESSION – 6:00 p.m.

Chairperson Todd Fitch called the meeting was called to order at 6:05 p.m. for a special study session preceding the regular Planning Commission Meeting to review the San Tomas Business Park proposed design and site plans (Harvest Properties/NVIDIA project located at 2600-2800 San Tomas Expressway and 2600 Condensa Street). Commissioners present were Teresa O'Neill, Tony Marine, Ian Champeny, Keith Stattenfield, Frank Barcells and Robert Mayer. Staff present were Director of Planning and Inspection Kevin Riley, City Planner Carol Anne Painter, Development Review Officer Gloria Sciara, Planner Yen Han Chen, Office Specialist IV Susan Landers, Civil Engineer II Darrell Mackie and Assistant City Attorney Julia Hill.

City Development Review Officer Gloria Sciara presented a staff introduction and overview. She reviewed the entitlements requested and noted the Environmental Impact Report (EIR) is in circulation, so there would be no discussion on related issues at this session. Ms. Sciara said the purpose of this meeting would be the introduction of the architectural and site planning concepts. She said the project would be scheduled on the November 12th Planning Commission agenda, and there would be a special meeting on November 19th as well.

NVIDIA owner John Hankey, Harvest Properties Developer Dave Wilbur, project architect Ted Korth and landscape architect Rene Bihan presented the proposed architectural and site plans for the location.

Following NVIDIA's presentation, there was Commissioner discussion followed by public comments. There were questions concerning recreational trails, zoning, traffic issues, the number of employees that would be working at the location and from where they would be commuting. Ms. Sciara stated that traffic concerns would be included within the EIR and would be addressed at the November meeting.

The study session was adjourned at 6:40 p.m.

REGULAR ITEMS – 7:00 p.m.

The regular meeting was called to order at 7:00 p.m.

1. PLEDGE OF ALLEGIANCE and INVOCATION

Chairperson Fitch initiated the Pledge of Allegiance, and the Invocation was read.

2. ROLL CALL

The following Commissioners responded to roll call: Chairperson Todd Fitch, Vice-Chairperson Teresa O'Neill, Commissioners Tony Marine, Ian Champeny, Keith Stattenfield, Frank Barcells and Robert Mayer.

Staff present were Development Review Officer Gloria Sciara, Planner Julie Moloney, Office Specialist IV Susan Landers, Civil Engineer II Darrell Mackie and Assistant City Attorney Julia Hill.

3. DISTRIBUTION OF AGENDA AND STAFF REPORTS

Chairperson Fitch said that copies of current agendas and staff reports for each of the items on the agenda are available from the Planning Division Office on the Friday afternoon preceding the meeting and are available at the Commission meeting at the time of the hearing.

4. DECLARATION OF COMMISSION PROCEDURES

Chairperson Fitch reviewed Planning Commission procedures for those present.

5. REQUESTS FOR EXCEPTIONS, WITHDRAWALS AND CONTINUANCES

A) Withdrawals – Commissioner Marine asked that Item 8C be removed from the Consent Calendar, as it was a continued item, and be put under continuances.

B) Continuances without a hearing

File: **PLN2008-07270**

Location: 4390 Basset Street. A 4,734 square foot parcel (APN:104-11-094) and is zoned R1-6L (single family residential)

Applicant/Owner: Messier Benitez/Jose Chavez

Request: **Variance** to allow an expansion to an existing non-conforming single family home. Home is non-conforming due to existing street side setback.

Project Planner: Bridgette Carol, Assistant Planner

Action: Continue to October 8, 2008

C) Exceptions (requests for agenda items to be taken out of order) - None

6. ITEMS FOR COUNCIL ACTION

The following items from this Planning Commission agenda are recommendations to the City Council and will be scheduled for Council review following the conclusion of hearings and recommendations by the Planning Commission. Due to timing of notices for Council hearings and the preparation of Council agenda reports, these items may be heard concurrently with or subsequent to the Council review of these minutes. Please contact the Planning Division office for information on the schedule of hearings for these items:

Agenda Item #9. File: PLN2008-06863 Location: 2800 Mission College Blvd.

7. ORAL PETITIONS/ ANNOUNCEMENTS AND COMMUNICATIONS

A) James Rowen opined about the role of Commissioners in evaluating issues irrespective of negative comments from community members and actions taken two years ago.

8. CONSENT CALENDAR

Following a public hearing, Commissioner Stattenfield made a motion to adopt the Consent Calendar with the exception of Items 8B and 8C, seconded by Commissioner Marine. The motion was approved unanimously.

Routine Items/Consent Calendar

8.A. Planning Commission Minutes of August 27, 2008

Public Hearing Items/Consent Calendar

8.B. File: **PLN2007-07278**

Location: 1550 Halford Avenue, a 1,355 square foot tenant space located in a 1.32 acre street mall on the north side of El Camino Real, approximately 160 feet east of Halford Avenue (APN: 213-35-035). Property is zoned CC (Community Commercial).

Applicant/Owner: Tanyart Woothhirat for Thai Chili Cuisine

Request: **Use Permit** to allow beer and wine services in an existing restaurant

Project Planner: Bridgette Carol, Assistant Planner

Commission Action:

This item was pulled from the Consent Calendar by Commissioner Marine. Following the public hearing, Commissioner Marine moved to approve the request, subject to conditions, with an added condition that the beer and wine service take place in conjunction with food service. Commissioner Stattenfield seconded the motion, and it was approved unanimously.

8.C. File: **PLN2008-07270**
 Location: 4390 Basset Street. A 4,734 square foot parcel (APN:104-11-094) and is zoned R1-6L (single family residential)
 Applicant/Owner: Messier Benitez/Jose Chavez
 Request: **Variance** to allow an expansion to an existing non-conforming single family home. Home is non-conforming due to existing street side setback.
 Project Planner: Bridgette Carol, Assistant Planner

Commission Action:

Commissioner Marine pulled this item from the Consent Calendar to list it under Continuances for continuation to October 8, 2008.

8.D. File: **PLN2007-06511**
 Location: 3064 El Camino Real, one tenant space in a 1.17 acre shopping center, on the south side of El Camino Real, approximately 300 feet west of Alpine Avenue. Property is zoned CT (Thoroughfare Commercial). APN 290-04-006.
 Applicant/Owner: Jerusalem Restaurant & Deli/New Star Realty & Inv.
 Request: **One-Year Review** of Use Permit to allow restaurant and beer and wine service
 Project Planner: Bridgette Carol, Assistant Planner

Commission Action: **Noted and filed request**

*******End of Consent Calendar*******

REZONING

9. File: **PLN2008-06863**
 Location: 2800 Mission College Boulevard, a 5.78 acre parcel bounded by Our Lady of Peace Church to the north, Great America Parkway to the east and Mission College Boulevard to the south and west (APN 104-16-089)
 Applicant/Owner: Our Lady of Peace Church
 Request: **Rezone** from A (Agriculture) to B (Public) to construct a 215 space parking lot on an undeveloped parcel
 Project Planner: Julie Moloney, Associate Planner

Summary of Discussion

Following Ms. Moloney's presentation on this project, Commissioner Champeny stated that the subject area is within the Habitat Conservation Plan and Natural Diversity Database. The area is listed as having the presence of the Burrowing Owl, and they are considered extant, or still present. As such, he questioned the Environmental Checklist #6 as a "less than significant" impact. He mentioned that the initial study stated that the subject area "still provides Burrowing Owl foraging habitat" and that the letter from H.T. Harvey and Associates stated the "site conditions in general were consistent with suitable burrowing owl habitat." Commissioner Champeny said a major cause of the declining burrowing owl population is loss of habitat. He asked the applicant if the Mitigated Negative Declaration was given to the Department of Fish and Game for review and if so, asked what they had commented. Ms. Moloney said they had been notified but had not responded.

Architect for the project, Elizabeth Gibbons, said that a biological study indicated no burrowing owls

had been observed in the area for 3 or 4 years. She said the study had been done during the owls' prime habitat period in April. Mr. Champeny asked if there is a relocation plan for any owls that might be found during excavation, and Ms. Gibbons said there is standard Fish and Game protocol that would be followed, and a biologist would determine what the best relocation plan would be at that time.

Joe Mastroieni, representing Our Lady of Peace Church, spoke and indicated the parking lot currently has 300 spaces, which are insufficient to accommodate the church's special events, which draw up to around 1,000 people.

Following discussion, the public hearing was closed. Commissioners asked about the timing of the proposed construction, and Commissioner Champeny said that if the construction would not take place until next spring, he would like another burrowing owls study to be done in the spring. Commissioner Champeny asked that the Department of Fish and Game be notified again and that their comments or lack of comment be evidenced. He asked that there be a condition of approval that a qualified biologist inspect the site prior to and during construction. He said that, if construction does not occur prior to April 30, 2009, an additional survey should be conducted.

Commission Action

Commissioner Barcells moved to approve the request in that the Commission made the necessary findings, based upon the evidence presented in the Staff Report with regard to the conditions of Section 18.110.040 of the Zoning Ordinance, and the public hearing, to recommend that the City Council approve the request, subject to conditions and that Staff make another follow-up contact with the Department of Fish and Game to notify them about this project, that a qualified biologist inspect the site prior to and during construction, and, if construction does not occur before April 30, 2009, that another study be done to check for burrowing owls. Commissioner Champeny seconded the motion, and it was approved unanimously.

VARIANCE

10. File: **PLN2008-07224**
 Location: 1444 Market Street, a 5,000 sq. ft. lot on the south side of Market Street, in a Single Family Residence (R1-6L) Zoning District, approximately 100 ft. west of Madison Street (APN 269-35-044)
 Owner: Lisa Freitas
 Request: **Variance** for substandard side yard setbacks and an attached one-car garage where a two-car garage is required, in conjunction with new construction of a single family residence.
 Project Planner: Jeff Schwilk, Associate Planner

Commissioner Mayer recused himself from this item, as he owns property within 500 feet of the project address.

Summary of Discussion

Ms. Sciara said this item had come before the City on a number of prior occasions and explained the current project. A slide presentation was provided.

Robert Chojnacki, the attorney for the owner, Lisa Freitas, said Ms. Freitas had been working with the City for over a year to seek approval to rebuild her home after the home had collapsed unintentionally during remodeling. He said she was attempting to rebuild the home to recreate the original home's historical characteristics. Mr. Chojnacki said 29 neighbors had signed a petition in support of Ms. Freitas' request. Mr. Marine spoke about a letter from the attorney's office and noted that whether the collapse of the home was or was not intentional could not be proven.

There was discussion about the garage. Commissioner Marine said the Historical and Landmarks Commission indicated a one-car garage should be detached, and he asked why a detached garage

would not work. Mr. Chojnacki replied it would diminish the size of the house and the size of the backyard. There was further discussion about the garage.

Commissioner Barcells said the project has been going back and forth for two years and had been a hardship on the applicant. He said the plan seems to be compatible to others in the neighborhood.

Public comments were then heard. Ms. Kris Motyka spoke in opposition to the project stating the plans that were approved two years ago no longer apply because the house no longer exists and expressed concerns about the impact on the historical integrity of the neighborhood. Mr. Lou Faria concurred

that, as the house had collapsed, the variances had been made to save the historic property were no longer applicable. He said the house is too large for the lot, and a two car detached garage could be put in the rear. Citizens who spoke in favor of approval stated such reasons as there are other attached garages in the neighborhood and an attached garage would not detract, and, as the empty lot negatively impacts the neighborhood, it is time to move forward.

The public hearing was closed, and there were some additional comments from commissioners.

Commission Action:

In that the Commission made the necessary findings, based upon the evidence presented in the Staff Report and the public hearing, Commissioner Stattenfield moved to recommend that the City Council approve the request, subject to conditions. Commissioner O'Neill seconded the motion, and it was approved unanimously.

OTHER BUSINESS

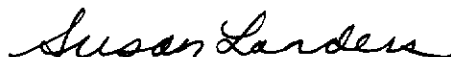
11. Commission Procedures and Staff Communications

- i. Announcements/Other Items
Commissioner Champeny reported he would attend a CEQA workshop in November.
- ii. Report of the Director of Planning and Inspection
 - City Council Actions – Ms. Sciara reported on the September 16 meeting.
 - Commission/Board Liaison and Committee Report
 - Commission/Committee Assignments - Assignments are reflected in the next three bulletpoint items.
 - Architectural Committee: Commissioners Stattenfield and Mayer (Barcells alternate)
 - Station Area Plan: Commissioner Champeny
 - General Plan sub-Committee: Commissioners Fitch and O'Neill (Champeny alternate)
- iii. Commission Procedures
 - Planning Procedures
 - Work plan items
 - Commissioner Travel and Training reports
- iv. Upcoming agenda items – 4600 Patrick Henry Drive – request for a church use; report on noticing procedures

12. ADJOURNMENT

The meeting was adjourned at 9:07 p.m.

Respectfully submitted:

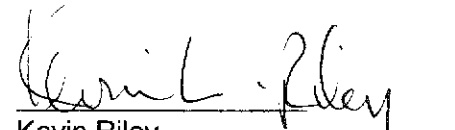


Susan Landers
Office Specialist IV

Approved:


Gloria Sciara, AICP
Development Review Officer

Approved:


Kevin Riley
Director of Planning & Inspection

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